

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

X

LUCKY BRAND DUNGAREES, INC., LIZ :
CLAIRBORNE, INC.,

Plaintiffs,

INDEX NO. 05 CV 6757 (LTS) (MHD)

-against-

ALLY APPAREL RESOURCES LLC d/b/a
GET LUCKY, KEY APPAREL RESOURCES,
LTD., MARCEL FASHION GROUP, INC.,
and EZRA MIZRACHI,

**NOTICE OF MOTION
FOR RULE 37 SANCTIONS**

Defendants.

X

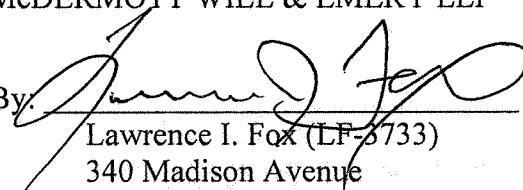
PLEASE TAKE NOTICE that upon the accompanying attorney declarations, memorandum of law, and all prior proceedings had herein, pursuant to Rule 37 of the Federal Rules of Civil Procedure, Defendants Marcel Fashion Group, Inc., and Ezra Mizrachi (“Marcel”), move this Court, at the United States Courthouse, 500 Pearl Street, New York, New York 10007, at a date and time to be determined, for an order granting Defendants’ Rule 37 Motion for Sanctions against Plaintiffs.

WHEREFORE, Marcel respectfully moves this Court for an order (1) awarding Marcel for the attorneys' fees and costs incurred as a result of Plaintiffs' discovery abuses; (2) finding that Plaintiffs' admitted uses of GET LUCKY on apparel sold after 2003 establishes a violation of the May 2003 Settlement Agreement, and an infringement of Marcel's trademark rights; and (3) finding that Plaintiffs' conduct constitutes bad faith, willfulness and reckless disregard such that this constitutes an exceptional case pursuant to 15 U.S.C. § 1117.

Dated: January 7, 2008

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CHI99 4925674-1.074511.0011